

## Complaint

Mr S is unhappy that HSBC UK Bank Plc didn't reimburse him after he reported falling victim to a scam.

## Background

In 2019, Mr S learned of an investment opportunity after it was recommended to him by a close friend. The investment was with a company I'll refer to as T Ltd, operated by a Mr T, who was well known in the local area. Mr S had also heard from others in his community that the investment was performing well and that several people had already invested with T Ltd. Mr T explained that investor returns would be generated through Contracts for Difference (CFDs), by speculating on movements in foreign exchange markets. Mr S was told to expect returns of 5% per month. Over a four-month period, Mr S invested a total of £60,000. He was able to make discretionary withdrawals from his investment account and, in total, received £14,000 back.

Once he decided he had likely fallen victim to a scam, he notified HSBC. The bank declined to reimburse him, saying it considered the matter to be a private civil dispute. Mr S wasn't happy with that response and so he referred his complaint to this service. An Investigator reviewed the case and upheld it in full.

HSBC didn't agree with the Investigator's findings. It highlighted that T Ltd was the subject of formal investigations. It was, therefore, premature to conclude that T Ltd was a scam. It argued that the complaint shouldn't be determined until those investigations had concluded. As HSBC disagreed with the Investigator's opinion, the complaint has been passed to me to consider and reach a final decision.

## Findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations (in this case, the 2017 regulations) and the terms and conditions of the customer's account. Mr S authorised these payments and so he is presumed liable at first instance. However, that isn't the end of the story. HSBC was a signatory to the Lending Standards Board's Contingent Reimbursement Model Code (CRM Code). Under the CRM Code, firms were expected to reimburse customers who fall victim to authorised push payment (APP) scams in most circumstances, subject to several exceptions.

### *Is it appropriate to determine this complaint now?*

The CRM Code only applies if what happened to Mr S meets its definition of an authorised push payment (APP) scam. HSBC has argued that it remains an open question whether this was a scam and we should wait until the position becomes clearer.

There may be circumstances where it is appropriate to wait for the outcome of external investigations. But that isn't necessarily the case in every complaint. Sometimes it is possible to reach conclusions on the key issues based on the evidence already available. And in some situations the external investigations may not be concerned with the same

issues, or may not address them in a way that assists this service. For example, any criminal proceedings that might eventually arise could involve charges that do not directly relate to the questions I must decide here. And even if a prosecution were relevant, an outcome other than a conviction may provide little assistance, because the Crown would be required to prove its case to a higher standard (beyond reasonable doubt) than the standard that applies to my decision (the balance of probabilities).

To determine Mr S's complaint, I must consider whether, on the balance of probabilities, the available evidence indicates it is more likely than not that he was the victim of a scam rather than simply a failed investment. But I would not proceed to that determination if I thought fairness to the parties required me to wait.

I'm aware that Mr S first raised his concerns with HSBC in March 2025, and I must keep in mind that this service exists to resolve complaints promptly and with minimal formality. Against that backdrop, I do not think it would be appropriate to delay giving Mr S an outcome for an unspecified period unless there were a compelling justification. As a general rule, I would not consider it fair to postpone my decision unless, taking account of the evidence currently available, waiting is likely to make a significant difference to the resolution of the issues.

I also recognise that the external processes might eventually lead to some recovery for investors in T Ltd. To avoid any risk of double recovery, I think HSBC would be entitled (if it chooses) to take an assignment of Mr S's rights to any future distributions he might receive relating to this investment before paying any award I may make.

For the reasons I explain further below, I do not consider it necessary to delay determining this complaint.

*Has Mr S been the victim of an APP scam, as defined in the CRM Code?*

The CRM Code applies only to payments that meet its definition of an authorised push payment (APP) scam. For the purposes of this complaint, the Code defines an APP scam as one where a customer has:

*“transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.”*

The Code also expressly excludes certain scenarios, including:

*“private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier.”*

To find that Mr S's payments fall within the scope of the CRM Code, I must be satisfied that:

- a) the purpose for which Mr S made the payments was different from the purpose for which T Ltd obtained them; and
- b) that difference arose because of dishonesty or deception by T Ltd or anyone acting on its behalf.

The key issue, therefore, is what the intentions of T Ltd were at the time the payments were made. While I cannot know those intentions with certainty, I must assess the available evidence and consider whether it allows me to infer, on the balance of probabilities, what those intentions were likely to be.

Having considered the available evidence, I think there is persuasive support for the conclusion that it is more likely than not that this was a scam, rather than simply an investment that failed. I understand that His Majesty's Revenue and Customs (HMRC) froze all bank accounts belonging to T Ltd. Shortly afterwards, Mr T ceased all contact with his clients and left the country. I am also aware that he is the subject of an ongoing Financial

Conduct Authority (FCA) investigation, although no information from that investigation has been provided to this service.

Perhaps most significantly, this service has reviewed statements for several bank accounts held by T Ltd. The activity shown on those accounts does not suggest that Mr T was using client funds for genuine investment activity. Instead, the pattern of transactions is consistent with what one would expect to see if Mr T were operating a Ponzi scheme. Taking all of this into account, I am satisfied, on the balance of probabilities, that T Ltd was operating dishonestly and that Mr S's payments were made in connection with an APP scam.

Returning to the question of whether in fairness I should delay reaching a decision pending developments from external investigations, I have explained why I should only postpone a decision if I take the view that fairness to the parties demands that I should do so. In view of the evidence already available to me, however, I don't consider it likely that postponing my decision would help significantly in deciding the issues.

#### Should Mr S be reimbursed under the Code?

I have gone on to consider whether HSBC needs to reimburse Mr S under the terms of the CRM Code. As mentioned earlier, the Code requires firms to reimburse customers who have been the victim of APP scams (such as the one I am satisfied Mr S fell victim to) in all but a limited number of circumstances. It is for the firm to establish that one of the exceptions to reimbursement applies.

Under the CRM Code, a firm may decline to reimburse a customer if it can establish that:

- *"The customer ignored an effective warning in relation to the payment being made";*  
or
- *"The customer made the payment without a reasonable basis for believing that ... the person or business with whom they were transacting was legitimate."*

So far as I can see, HSBC didn't provide any warnings to Mr S when he made any of the payments in connection with this scam, so I don't think it can fairly rely on the first exception.

I've also considered whether it can rely on the second exception. It's significant that the test set out in the CRM Code isn't entirely objective. It allows me to take into account the characteristics of the customer. Mr S wasn't someone with experience or knowledge of non-mainstream or higher-risk investment products. The returns he was promised (5% per month) were considerably higher than those typically available to a retail investor at the time.

In many circumstances, that alone might have prompted a degree of scepticism. However, there is an important factor that distinguishes Mr S's case. He was encouraged to invest by a close friend who had already invested with T Ltd and had successfully earned returns. Given this, I do not think it was unreasonable for someone without specialist financial knowledge to believe the investment could be legitimate, particularly when a trusted contact had apparently received the returns they were told to expect.

On the facts of Mr S's case, I am satisfied that he made the payments with a reasonable basis for believing that the opportunity was genuine and so I don't think HSBC can rely on the second exception either. It follows that it should now reimburse him under the CRM Code.

#### **Redress**

As there is an ongoing investigation by multiple parties, it's possible Mr S may recover some further funds in the future. To avoid the risk of double recovery, HSBC is entitled to take, if it wishes, an assignment of the rights to any future recovery of funds in respect of the investment before paying the award. If the bank elects to take an assignment of rights before paying compensation, it must first provide a draft of the assignment to Mr S for his consideration and agreement.

## **Final decision**

For the reasons I've explained above, I uphold this complaint.

If Mr S accepts my final decision, HSBC UK Ltd should refund the payments he made in connection with the scam, less any returns that he received. It should also add 8% simple interest per annum to those payments calculated to run from the date it declined his claim until the date a settlement is paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 27 February 2026.

James Kimmitt  
**Ombudsman**